

COMMISSIONERS APPROVAL

CHILCOTT *g*

THOMPSON *at*

LYONS *ph*

PLETTENBERG (Clerk & Recorder)

Date.....January 24, 2007

Members Present.....Commissioner Greg Chilcott,  
Commissioner Alan Thompson and Commissioner Howard Lyons

Minutes: Glenda Wiles

The Board met for a discussion of the Stream Side Set Back regulations. Planning Director Karen Hughes, presented a staff report. She noted the Commissioners addressed the Streamside Setback Regulations, proposed by the Bitterroot Board of Realtors, at the last Planning Board update. The Planning Staff has not had time to do a full review of the current draft; and there is another draft being done by the Realtors. Karen presented copies of meeting notes from the Board of Realtors and other concerned citizens. Karen also noted the Board of Realtors is not available on this date and they have prepared a letter for review. She also presented a memo from County Attorney George Corn in regard to the proposed adoption of Streamside Setbacks. Karen advised the Commissioners that these regulations are a form of zoning. The map is not complete and the regulations are, therefore, incomplete until a map is attached. Adequate comment for review cannot take place, nor could any understanding of the actual setback regulation proposal take place. She also noted there would be a lack of adequate public comment if they were to move forward at this time without any maps.

Karen stated some citizens are requesting scientific review; but again there can be no peer review without a map. Any choice of buffer zones would be arbitrary. She said members of the scientific community are concerned about utilizing the Rosen Model, and the current proposal as presented by the Board of Realtors does not address the main stem and the East/West Forks of the Bitterroot River.

The current proposal assumes that county administrative rules are in place; they are not. The current version would be costly to implement. She also noted the current appeals process of this draft has 'a lot of work yet to be done'. Most of the burden has been placed on Planning Staff and the Commissioners. She stated another issue is this is a living document and it appears they would need to update the streams. She stated they will need to see if the county has the budget to maintain this document when it is brought forth. The proposal also names other agencies which may not even exist. Karen stated there is a timing issue as the legislature is meeting and this bill (LC700) is in legal

review. She said there are some unknowns to this: whether the bill will be passed, if regulations are in place, are they grandfathered in, etc. She also noted some errors exist in this proposal and, although they can be corrected, it could be a major problem. She said the public needs to weigh in on this document for adequate public review.

Karen indicated they can work with the legislators, continue to review this proposal and possibly review some interim regulations, or do nothing. She said some people complained that earlier flood plain maps were adopted without maps. However, this was in the 1980's and the maps were complete, but not enforced until FEMA adopted the same maps one month later.

Commissioner Thompson stated he appreciated the Realtors laying some ground work on this issue. However, without maps it would be difficult to move ahead. He said if people want to make comments this date, they should not assume the Commissioners are making a decision one way or the other. He stated they have not held enough public meetings for public comment and agreed this issue should be dealt with on a local level. He asked if LC 700 deals with all surface water. Karen stated it deals with the river and streams. Laura stated it addresses Tier One (rivers) and Tier Two (streams that touch Tier One).

Ross Darby stated GIS did an aerial fly over of the streams. Could the city and county work together to obtain those maps? Karen said they have access to a variety of aerial photography, and they utilize that information. However, many times the water is under cover. Aerial photography is one tool. In regard to the potential impact of burden on the county, there is no provision to do the application requirements, so they do not know how they would actually do the permitting. Karen noted the draft addresses the application process; there are no criteria to make it work, so it could be challenged.

Roger DeHaan stated this is a necessary discussion. He said on this draft, he does not like the 'purpose' as they are to eliminate future need for hard rip rapping in streams. If the development is pulled back, you do not have to worry about rip rapping, as you allow the stream to do what it does naturally. He also asked about the buffering width. Karen said that issue was not clear at this time within the proposed draft. Roger stated he agrees there are many models, and attention must be paid to the flood level, along with the historic issues and adjacent elevations. The setbacks should be based on those three things. He also stated the proposal appears they have 'taken some numbers out of the hat'. He stated he does not like language that allows variances if it negatively affects the development prospects. Roger said it is important to have those regulations in place because flood events can have a negative impact on property. He stated more than realtors need to be involved; the Commissioners should establish a committee of people with expertise in these areas. He also felt it would take years to obtain a good map.

Kathleen Driscoll stated the problem is in the details. The details can become a 'horror' and we need to look at land use, planning and zoning at the same time.

Dave Schultz stated the Planning Department has a good handle on this. He felt it has not been a broad-based process thus far. He lived in Madison County; they studied streams

there. If you are going to use the Realtors, include other people with expertise and allow public comment. The current proposal makes no allowance for public involvement.

Max Clifford is the Clark Fork Conservations Attorney who works at the State and local level. He said 'kudos to Ravalli County'. Local control is the way to go. LC700 endorses local control; and there is a process to allow local setbacks. He also stated it doesn't matter if Ravalli County gets this proposal together before any legislation occurs.

Ira Holt, member of Fish and Wildlife Association and Montana Wildlife Federation, said he is a member of the group that wrote the last bill and current statewide legislation. In May of 2006 the idea to gather data for a map was presented to the Commissioners and people stated at that time that a map is not a good way to do set backs. The realtors said they were only gathering data, but now they are submitting a proposal based on non-existent data. The proposal goes into some zoning issues, but many hydrologists do not understand what they have written. The realtors discussed names for the group and they started meeting in 2005; the realtors walked out on those meetings and Barbara Kitchens would not respond to his questions. He stated the Realtors hand out material, but they do not carry through on much of anything.

Jack Maurer of Trout Unlimited stated this is a complex series of streams and this is a huge responsibility to get this right. The last flood event caused some issues, which will continue to occur. Abrupt run off's can cause huge damage to the middle zones. Everyone would like a document, but we need to protect our stream courses.

Doug Soehren lives right next to Skalkaho Creek. He represents the Friends of the Bitterroot, and they are interested in this topic. He said a scientific approach is required. There is no way to pass this without necessary information/maps. It is totally inappropriate to allow a special interest group to push this through. His group and others would like 'a place at the table'. He said he appreciates the information from the Planning Office. In regard to the draft and agricultural uses under Section 6; he felt fencing for agricultural uses flies in the face of stream-side setbacks.

Chris Linkenhoker of Save the Bitterroot Conservation Coalition stated he has some Forest Service background with stream-side regulations. He presented written comments as attached.

Phyllis Bookbinder stated she uses the river for recreation. She worked on this issue in 2005; it was sad that the realtors took over the committee and did research on their own. There are lots of problems with it, such as procedures, mapping and sections left open for appeals. The rivers should be included. She felt they need better science. They should start with leaders in the field and not have realtors so involved in public policy. She suggested they wait until the State completes this and then augment their legislation.

Don Morton a local rancher, agreed with Roger DeHaan about the banks, but said agriculture fencing should not be limited, as it flies in the face of our history. There

should be a clear path with people being able to participate; many owners are out of state and want to do something in the future. He felt they should be involved.

Pam Erickson lives near Canyon Creek. A flood occurred in November when 60' of the stream came up to a neighbor's house; they spent \$75,000 thus far to repair the damage. Obviously streamside legislation is important and it can be seen in this issue.

Ben Hellicoss of Florence and member of the Planning Board stated he is glad to see the Commissioners wanting a public process, and he appreciated the points made; he would like to see the Planning Board involved in the public process.

John Ormiston said the Commissioners should follow the County Attorney and Planning Staff's advice. Full public participation is needed. The effort should be led by Planning, not special-interest group.

Carl Fox stated this is the right track, but we need to be careful because people live next to stream banks. He felt the banks are high and solid; therefore 300' may be too far away. He remembers the Skalkaho Creek flooding in 1948. But today they have built houses where it flooded. Corvallis also had a flood event at the store, so care is needed in these things. He agreed maps are needed.

Jake Kammerer a registered sanitarian and geologist stated the County should increase their areas of expertise as it benefits the citizens.

Curtis Cook also expressed concern as stream-side setbacks are an important part of the resident's lives. He stated he is pleased to see the Planning Staff doing good work and is pleased with Commissioner Thompson's comment about having the public weigh in on this issue. There is a lot of work yet to be done and thanked the Commissioners for allowing the public to be involved.

Les Rutledge, a member of the Planning Board had the same comments as Karen. He stated 'the process we are faced with is not the one we should be engaged in'. He felt it is important to have a 'better represented group of citizens' and community experts are needed for their input. He felt this type of committee could generate a document using some portion of the realtor's draft. But it is not the way to go at this time.

Commissioner Lyons said the LC700 bill provides an immediate passage date. He felt the realtors are 'just trying to get something in place'. He said the ordinance could be changed later and in the meantime they would have local control. LC 700 gives 150' on each side and sometimes that is not enough of a set-back. He stated the realtors did the best they could in their time frame. He also noted they took input from other people when they wrote the proposal. Commissioner Lyons stated this is just a 'flock shoot' to know if LC700 will be passed. He also stated the mapping is expensive; and the county has an opportunity for someone else to pay for that mapping. He felt there has to be some way to get this done in a quicker time frame. As it might cost \$200,000 if the

County has to do it; but the realtors can get this done at a bargain rate. He felt the proposed draft needs to be done now and not to wait for anything else.

Commissioner Thompson stated the first Thursday of the month he and Flood Plain Administrator Laura Hendrix were testifying in Helena on this issue. Planning has applied for a \$100,000 grant for GIS contour mapping. He stated they are confident they will obtain the grant, and that will provide mapping of the northern half of the County. He said when the realtors approached the Commissioners they wanted to compile data. The Commissioners welcomed the data and felt it was a starting point. However he will not adopt anything this important without public input. He also stated the Commissioners need good, hard data which includes the maps. He appreciated the realtors going after a grant and he will not discount what they have put together.

Commissioner Chilcott stated a meeting was recently held where the realtors brought an expert land-use attorney. Zoning was discussed, as was stream-side setbacks. He said they do not want to be arbitrary and capricious in making any kind of decisions on this issue. He also noted he has a personal interest, as he lives on the Bitterroot River. He stated whatever their finished policy is, it must be based on good science.

Commissioner Chilcott stated Ravalli County's geography is diverse and must blend science and public policy, which can be tricky. The realtors funded something the County could not afford to do which he appreciated. Currently the Planning Office is applying for DNRC grants and this, too, will be a huge benefit to the data for good policy and defense in court. Realtors are a special-interest group, as are others who want to become involved. But all citizens need the opportunity to weigh in on this issue. He felt good data will serve the County well. He also noted the Legislators have been saying LC700 will be one size fits all, but the state should not dictate what the County does. The deadline to have something in place is January 2008. He feels public involvement is imperative and understands it can slow the process down. He too agreed the mapping is necessary.

Commissioner Thompson said he hesitates to give the planning staff more work, but felt it was important for them to be the lead in putting together a collaborative group. Commissioner Chilcott thanked Ira Holt and Matt for being part of the process with the legislators. Karen stated this is a critical item of interest for planning and noted this type of issue fits within zoning. She stated staff time has been allocated and they can help convene a diverse group of folks to provide public involvement.

Commissioner Lyons stated this is the right direction, but does not want to 'get stuck with state mandates'.

In other business the Board met with Internal Auditor Klarryse Murphy regarding monies that would be needed for the relocation of a 9-1-1 Center. Also present at this meeting was 9-1-1 Supervisor Joanna Hamilton, Special Projects Coordinator Marty Birkeneder and 9-1-1 Advisory Board Member Jane Ellis. Commissioner Lyons stated he had to

leave but he wanted to go on record in support of 9-1-1 and whatever they need to do this relocation.

Joanna reiterated the basic space need that was discussed on January 8<sup>th</sup>. She stated they would like to move out of their current space and relocate to a different building. Her budget will not pay for the whole move, so they are looking at grant money and possibly a loan.

Jane stated she has worked with the formal space analysis needs for the Missoula County 9-1-1 Center. She suggested they find an architect to perform a 'Needs Analysis for 9-1-1', starting with how much square footage they need; then either finding an existing building or building a new one. Missoula County spent \$45,000 for a Needs Analysis which she felt was well worth the money.

Klarryse stated it is difficult to fund loan payments from the General Fund. She stated they can look at reserves but was very hesitant to do that. She stated they do have some inter-cap loans that will be paid soon. In August 2007 they will pay off the Inter-cap loan on the remodel for the Administration Center. She agreed a 'Needs Analysis' is important, and not just for 9-1-1.

Commissioner Chilcott stated they must examine the needs of the citizens they will be serving within the next 15-20 years.

Marty stated a 'Needs Analysis' opens many doors for funding. Discussion included the lack of mills, debt service, etc., and the need to look ahead. Impact fees are possible. She recommended a long-term review for efficiencies in government. Commissioner Thompson suggested a levy and impact fees for the construction of the 9-1-1 Center.

Jane said they might use 'quarter' money from 9-1-1 for the 'Needs Assessment'.

The Board will make a site visit to analyze remodeling issues at the Courthouse for Nurses and WIC and the possibility of using Tariff Funds.

Jane stated she can obtain the Request for Qualifications for the 'Needs Analysis' from Missoula County. The Commissioners thanked them for their time.

In other business Klarryse also met with the Board in regard to a general overview of the Ravalli County Budget by reviewing revenues for each department,

The Board then met with Planning Director Karen Hughes in regard to the work plan and funding issues. Karen presented a staff report on the 2007 work plan development for the Planning Office. (See attached). Karen stated they have split their work plan into two phases. Phase 1 would be the highest priority, which is zoning (use, setback and heights). Karen stated public involvement will be important in this process and their attempts to stay with the targeted time line. Two more resources needed are additional consulting for GIS modeling, estimated between \$10-15,000 and professional facilitation; they are

considering utilizing staff from the University of Montana. They estimate those costs to be \$15,000. Karen stated they could spread this amount of money over two fiscal years. Karen stated her office needs one more full time employee. The present staff totals nine full time employees, but there is a consistent need for at least eleven. Revenues generated by subdivision were not sufficient; they are in need of one more full time employee for this case load. Karen also presented a fiscal year 2007 Additional Funding Needs and Resources Proposal for their over all work plan. This totals \$37 - \$42,500.00. They have potential resources, which would include raising administrative fees and shifting monies from other budgeted lines. Karen noted they are looking at CDBG Planning Grants for the zoning project costs. Their motor pool/fuel related costs are higher than anticipated; they just received the July 17<sup>th</sup> billing that appeared to cover the FY 2006 costs. Planning Board mileage is higher than anticipated due to the number of board members. She would also like to shift the overtime costs for subdivision exemption to another area; she will work with the Clerk & Records office in that regard.

Karen stated the grant monies would not be available until FY 2008. They are also reviewing a new fee schedule, other grant options such as a levy, legislative bills for one time allocation of monies for fast growth counties and community technical assistance programs at the state level.

Karen stated the Planning Board met and their feed back was positive. A few ideas came to light for extending the interim zoning 'ahead of time'. The Board recommended the Commissioners approve this work plan and fund it in order to move forward.

Internal Auditor Klarryse Murphy stated it appears another FTE is necessary, due to the recent interim zoning. She stated with their proposed shift in funding, they could fund an employee for the remainder of the year as there are some reserve funds available. Klarryse stated one issue is the lack of space for the new employee, and an increase of fees for future funding. She also reiterated the need to look for CDBG funds. Commissioner Thompson stated they should not count on these types of funds because every year Congress looks to reduce these funds.

Public comment was called for.

Dave Schultz complimented a complex process. He urged the Commissioners to pass this work plan and the funds necessary to carry it.

Curtis Cook stated he supports this project. He can see that the planning staff has put quite a bit of work in into this. The statute provides an extension up to a year for this zoning. The Commission can make that extension now, which would still allow for public participation.

Jim Rokosch of Stevensville urged the Commissioners to support this program. He has participated in some of the land-use committee meetings. This is an interactive, dynamic



plan, and an ambitious schedule. He agreed with Mr. Cook's recommendation to extend the interim zoning period.

Kathleen Driscoll stated she witnessed citizens coming forward and working together. She recognizes the hard work that has been done.

Carolyn Weisbecker supports the extension of the interim zoning.

Ben Hillicoss, a Planning Board member and chairman of the land-use committee said the two-phase plan is a good idea and the interim zoning should be extended; but cautioned that this is a zealous plan and they will need the whole year, as the public process always takes longer than anticipated.

Les Rutledge, member of the Planning Board, feels there is momentum going and he does not want to lose it. In order to have public process, they need to commit funds for a public facilitator.

Archie Thomas stated he is in favor of this but asked some questions about the chart of time spent for the work load. Karen stated they have estimated past the adoption because they can move their projects around on the board. Archie felt the planning office needed two more full time people, rather than only one.

Public comment closed. Board deliberation then took place.

Commissioner Lyons stated this type of work plan costs money. There is nothing in the taxes to accommodate this new zoning, so if no one comes forth with some donations, the possibility of levies must be considered. Levies could be done in May.

Commissioner Thompson stated this is a logical manner in which to put forth the wishes of the citizens. He stated this is an unfunded mandate from the citizens. He expressed concern over the budget of Ravalli County as the county has the potential to lose \$200,000 due to the lack of Secure Rural Schools funding by Congress. Now two Commissioners are being added, including office furnishings, 9-1-1 needs more space, etc. So, while the Commissioners don't disagree with the need, the funds must be found to fill that need. He stated he cannot see how a levy would pass. In regard to extending the interim zoning, he understands that will probably need to be done, but he stated he does not feel comfortable extending that today. He stated he would rather wait until August or September to make that extension.

Commissioner Thompson relayed he visited with the legislators to allocate monies to the 'fast growth counties' and a one time allocation of \$10.00 per person, would be \$400,000. The state has a billion-dollar surplus so they have plenty of money to do that. He stated he appreciates all of the time the Planning Staff has put toward this work plan, but his problem is how they fund it.



Commissioner Chilcott addressed the two new commissioners, new equipment, etc., that was also a voter mandate. He stated those costs will come out of the current budget which means a decline in all services. As Commissioner Thompson, stated they may take a \$200,000 hit with the loss of the Secure Rural Schools Act; and adding two new Commissioners will require \$230,000. While Karen is frugal in her estimations, all of those costs add up and the County will be required to take monies from one place to fund another. He stated he fully supports zoning and agrees they need to extend the interim zoning for another year. However, he wants to keep the time line moving so people don't wait until the last minute to get involved.

Commissioner Chilcott stated they should adopt the time line proposed; approve this particular approach to zoning and the work plan. However, they need to explore their options for funding this work plan. He felt the end user needs to pay for those services and not the regular tax payer. He complimented the planning staff for their top notch work.

Commissioner Thompson asked about the overtime and consultants. Karen stated they identified two places for the use of consultants. One would be for modeling and land suitability analysis. The second area is the use of a facilitator for the public process. Commissioner Thompson asked Klarryse if those monies could be drawn from this FY 2007 budget. Klarryse stated they could take some of the 'liquid monies' from the debt service. Commissioner Chilcott said it is a long term commitment to hire a full time employee and \$15,000 for the modeling process is easier than funding a full time employee. Klarryse stated the new administrative fees could go to fund the full time employee for the FY 2008 budget.

Commissioner Thompson stated if the \$15,000 for the modeling portion of this work plan could be found, he would agree to move forward. In the mean time, if they hire a full time employee they need to look to fee increases during the next budget cycle. He also asked where (office space) they would put that new employee.

Commissioner Thompson asked if the interim zoning of 2 for 1 was slowing down the subdivision process. As that might be a place to 'free up' employees. Karen stated none of the subdivision review and application process has been affected yet.

Commissioner Lyons reiterated the people have to pay for zoning if they want it. He said to put the financing of this work plan out to a vote. Commissioner Chilcott stated the people have already given them a mandate and what would they do in the mean time, particularly if a levee did not pass. Commissioner Lyons stated they could do some 'creative financing'.

Commissioner Thompson made a motion to adopt the approach for the allocation of staff time, approval of the county wide zoning approach and preliminary work plan, including the necessary resources to fund the proposal, and to direct the Planning Department to start the initial work and bring forward a more detailed proposal outlining financial needs as part of this action. Commissioner Lyons seconded the motion and all voted "aye".